

Solicitation Number: DOC52PAPT0501029

Amendment: 2

Title: International Patent Database

Questions and Answers

Q.1 CLIN 0002: "Non-exclusive license for international patent database public accessibility at government facilities." We understand, per C.1., that "government use" is "use by USPTO employees wherever situated." In which USPTO facilities may the public access the subject database, and can USPTO confirm that public access to the subject database will only be via the USPTO EAST/WEST platforms.

A.1 Currently the public has access to USPTO public search systems in the Public Search Facility and the STIC main branch. The subject database will only be available by USPTO's search system.

Q.2 B.2 PRICING AND INVOICING APPROACH. In paragraph (b), "**setting** the **respectively** monthly invoices" should be "**settling** the **respective** . . ."

A.2 Noted and correction will be made.

Q.3. C.1 STATEMENT OF WORK/SPECIFICATIONS.
Under "Training," the statement of work calls for training that meets "USPTO standards for Section 508." Has USPTO issued standards for compliance with information technology accessibility requirements of Section 508 of the Rehabilitation Act? We assume that USPTO is not governed by the Federal Acquisition Regulation (FAR) Part 39; what other direction has USPTO issued regarding Section 508 requirements?

A.3 Although the USPTO is exempt from the Federal Property & Administrative Services Act (FPAS) and those parts of the FAR implementing FPAS, it is not exempt from other statutes such as the Rehabilitation Act of 1998 which sets forth Section 508 standards.

The following Section 508 standards apply to this procurement:

- 1194.21 Software applications and operating systems.
- 1194.22 Web-based intranet and internet information and applications.

Q.4 C.1 CLASSIFICATION "by July 2006, the ability to retrieve documents using USPTO classifications provided by USPTO". Can USPTO provide more

information on the “approximately six million non-US patent documents that have USPC classifications that will be provided to the contractor, in particular:

Q.4.a. In which data format will these documents be provided, and what is the quality of the source data?

A.4.a MS Excel format would be the preferred method.

Q.4.b Which patent authorities are covered by these six million documents?

A.4.b All of the data prior to 1995 + the data mined classifications were intellectually applied by USPTO examiners and classifiers. Mostly countries under PCT minimum documentation . Patent authorities include AR AT AU BE BG BR CA CH CN CS CZ DD DE DK EP ES FI FR GB GR HK IN HU ID IE IL IN IT JP KR LU MX NL NO NZ OA PL PT RO RU SE SG SI IN SU TW WO ZA

Q.4.c What time range is covered by these six million documents?

A.4.c The publications dates range from January 1979 through July 2005.

Q.4.d Have any of the USPC Classifications in this collection of six million documents been subject to Reclassification since the original classes were assigned?

A.4.d Yes, and all of the classifications are current.

Q.4.e Will there be periodic updates provided by USPTO to this collection of six million documents that the contractor will need to load.

A.4.e Yes. There will be periodic updates of foreign (non-US) documents with USPCs that will be provided by USPTO that the contractor will need to load.

Q.4.f It is assumed that USPTO will assign full and unlimited commercial rights for the contractor to make any data from the collection of six million patent documents fully available to other commercial users of the contractor’s international patent database. Can USPTO confirm that this is the case?

A.4.f USPTO does not “assign full and unlimited commercial rights” in data. However, we will make available public data from the collection of six million patent documents.

Q.5 G.1. CONTRACT ADMINISTRATION. (1) Contracting Officer's Technical Representative [COTR] This paragraph states, *inter alia*, that: "A letter of designation will be issued to the COTR with a copy supplied to the Contractor, stating the responsibilities and limitations of the COTR. This letter will clarify to all parties to this contract the responsibilities of the COTR."

Q.5.a. Question. Has the letter of designation contemplated by Section G.1, paragraph (1), been superseded by the detailed description of the COTR's responsibilities in Section G.3?

A.5.a No

Q.6. H.2 AWARD TERM OPTION INCENTIVES Question. References in paragraph (c) to "TDO" should, it appears, be to "ATDO," the Award Term Determining Official

A.6. Yes, you are correct. Reference will be amended.

Q.7 H.3 ORGANIZATIONAL CONFLICT OF INTEREST
Paragraph (b) states:

(b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict. Similarly, paragraph (c) refers to a situation in which the contractor "discovered an actual or potential conflict after award."

Q.7.a. Question. We would recommend that paragraph (b) and the referenced language in paragraph (c) be deleted. It is not clear how an organizational conflict of interest (OCI) could arise out of performance of this contract. The contract calls for provision of a database, and for attendant training. Neither would give the awardee an "unfair advantage" in a future procurement, and neither involves the provision of advice that might be prejudiced by the vendor's other obligations. *See* FAR 2.101 (definition of OCI). Nevertheless, this proposed provision is troubling, because it so exceeds the scope of OCIs governed by FAR Subpart 9.5. Please identify USPTO's statutory authority for an OCI provision which extends so broadly beyond the OCI protections afforded by FAR 9.5.

A.7.a H.3 will remain unchanged. The purpose of the clause is to prevent potential organizational conflicts of interest. We disagree that our OCI provision extends so broadly beyond the policies stated in FAR 9.5.

Q.8 H.4 ADVERTISING OF AWARD Paragraph H.4 states, *inter alia*, that:
"Advertisements, press releases, and publicity of a contract by a supplier shall not be made without the prior express written permission of the Contracting Officer."

Comment.

We recommend that the referenced sentence be deleted, as a public company must be able to release information to its shareholders, through established channels,

regarding award of a significant contract award. The previous sentence ("The Contractor agrees not to refer to awards in commercial advertising in such manner as to state or imply that the services provided are endorsed or preferred by the Federal Government, it is considered by the Government to be superior to other services.") sufficiently protects the government's interest in ensuring that the government is not drawn into an inappropriate "endorsement."

A.8 H.4 will remain unchanged.

Q.9 H.7.1 CAR 1352.239-73 – SECURITY REQUIREMENTS FOR INFORMATION TECHNOLOGY RESOURCES Question. It appears that this clause was never published for comment or included in the Department of Commerce Supplement to the Federal Acquisition Regulation. Would USPTO please cite the legal authority for this clause, and where it is published as a final rule?

Furthermore, it appears that this clause is not relevant, because none of the work contemplated by this solicitation involves access to the Department of Commerce's sensitive or classified information.

A.9 This is a required clause and is published in the Department of Commerce's Commerce Acquisition Regulations (CAR) which is accessible via the public website: www.doc.gov.

Q.10 H.7.2 CAR 1352.239-74 SECURITY PROCESSING REQUIREMENTS FOR CONTRACTOR/SUBCONTRACTOR PERSONNEL FOR ACCESSING DOC INFORMATION TECHNOLOGY SYSTEMS. Question. It appears that this clause was never published for comment or included in the Department of Commerce Supplement to the Federal Acquisition Regulation. Would USPTO please cite the legal authority for this clause, and where it is published as a final rule?

Furthermore, it appears that this clause is not relevant, because none of the work contemplated by this solicitation involves access to the Department of Commerce's sensitive or classified information.

Finally, the nondisclosure agreements called for under the clause are to be submitted in accordance with Commerce Acquisition Regulation (CAR) 1352.209-72. Please provide a copy of that clause (it is not available on the Commerce Department website at http://oam.ocs.doc.gov/docs/car13.htm#CAR_1352), and please confirm the legal authority and citation for that clause.

A.10 This is a required clause and is published in the Department of Commerce's Commerce Acquisition Regulations (CAR) which is accessible via the public website: www.doc.gov.

Although the contractor will not have access to sensitive or classified information there will be an interconnection to a USPTO network and therefore the IT security requirements are considered relevant. Additionally, training will require contractor performance onsite.

You can find the non-disclosure agreement CAR clause at http://oam.ocs.doc.gov/docs/DOC_Local_Clauses_PM2000-03A2.pdf. See page 25.

Q.11 I.2 52.212-05 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS

Comment.

We respectfully recommend that the USPTO delete its references to the following clauses as applicable, at page 23 of the solicitation:

- FAR 52.219-6 Notice of Total Small Business Set-Aside (June 2006): See paragraph (8) on page 23. Per SF-1449, this is not a small business set-aside (nor should it be, per the criteria of FAR Subpart 19.5). The clause therefore should not be "checked."
- FAR 52.219-14 Limitations on Subcontracting (Dec 1996): See paragraph (12). Because this is not a set-aside procurement, these limitations under FAR Part 19 do not apply. The clause therefore should not be "checked."

A.11 You are correct, 52.219-6 and 52.219-14 will be "unchecked".

Q.12 SECTION K – REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS Question. Will USPTO allow vendors to use the uniform certification registration system established at <http://orca.bpn.gov/>?

A.12 Yes.

Q.13 SECTION L – INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS. 1.1 Solicitation Response Requirements. Question. This section specifies that the page limit for Volume II Technical Proposal is 25 pages, including resumes. However, Section B under Item 3.1 Factor 1: Database Information requires that a total of 10 database records should be provided as samples. Would it be acceptable for the sample database records to be provided as an appendix or attachment, which was not included in the 25 page limit?

A.13 Yes.

Q.14 No appropriation bill passed for Department of Commerce yet for fiscal year 2006 Question.

What effect, if any, will the absence of FY06 appropriations legislation for Commerce have on this procurement? See <http://thomas.loc.gov/home/approp/app06.html>

A.14 The USPTO will ensure that funds are available at the time of award.

Q.15 Upon an initial reading of the solicitation, it seems the USPTO is looking for a vendor with a pre-existing database. Is this correct? If yes, where can we obtain access to data feeds to quickly build a fully term searchable demonstration index?

A.15 Yes. The USPTO is interested in licensing an in-house load of an existing international patents database, as well as access through commercial hosts of that database.

It is not clear what is meant by a 'demonstration index'. Nevertheless, the USPTO cannot dictate how the data is acquired. The source of the patent data is usually the Industrial/Intellectual Property Offices (IPO) that issue the patent publication. For example, for US patent publication data, the source would be the USPTO.

Q.16 Are you seeking a single vendor for performance of this contract or will strategic partnerships be considered?

A.16 We will award to a single vendor, however a vendor may propose appropriate subcontracting arrangements or partnerships.

Q.17 Who is the incumbent vendor, if applicable?

A.17 Thomson Scientific.

Q.18 What is the approximate total number of files or documents expected to be indexed and searchable by 2010?

A.18 The approximate total number of files or files or documents expected to be indexed and searchable by 2010 is unknown. It is dependent on the number of patents each IPO issue per year. However, to give an idea of the size of the current in-house database, it contains over 13.5 million records covering over 29 million patent documents for over 41 patenting authorities.

Q.19 Can you give us an idea of average file size?

A.19 The question is not clear as to what an "average file size" refers to (the patent record, updates, total records, etc.)? However, the size of the current in-house database contains over 13.5 million records covering over 29 million patent documents.

Q.20 How important are 'retrieval speeds' and 'index scalability' to this project?

A.20 The data will be loaded into the USPTO search systems so the retrieval speed is dependent on USPTO IT systems. Nevertheless, the data should be indexed so that USPTO search systems can provide quick searches of the data. The data must be in XML format as specified in the RFP.

Q.21 Do we need to reproduce the entire RFP document as part of our response, or can we simply refer to section headings/sub-headings from the original RFP?

A.21 Please reproduce the entire RFP document as part of your response.

END AMENDMENT